

## REMARKS

After amendment, claims 63-93 are pending in the present application, claims 1-62 having been cancelled pursuant to the filing of the instant application and the Examiner's issuance of a restriction requirement. Note that claims 63-92 are directed to compounds and pharmaceutical compositions based upon same, as well as a claim to a process for making a compound (claim 93). These claims are based on the subject matter which appears in examined claims 1, 3-11, 7, 26-28 and 55-58, with amendment, and are reflective of allowable subject matter. Note that claims directed to methods for treating neoplasia and/or cancer have been cancelled from this application in an attempt to maintain consistency with the elected invention/species and the Examiner's requirement for restriction. It is anticipated that Applicants will file one or more divisional applications directed to cancelled subject matter. No new matter has been added by way of this amendment. Support for the claims can be found throughout the originally filed specification, especially including the examples and originally filed claims and in particular, at pages 3-6 and the examples on pages 23-43. Applicants respectfully submit that they have addressed each of the Examiner's rejections and placed the application in condition for allowance.

The Examiner rejected the originally filed claims variously under 35 U.S.C. §112, first and second paragraphs and §102, for the reasons which are stated in the office action on pages 2-12. Applicants respectfully submit that the instantly claimed invention renders the Examiner's rejections moot for the reasons which are set forth in the sections which follow.

### The 35 USC §112, First Paragraph Rejection

The Examiner rejected claims 1, 3-11 and 55-58 under 35 U.S.C. §112, first paragraph for the reasons which are set forth in the office action on pages 4-12. In response, Applicants have deleted solvates and polymorphs from the claims, thus rendering any further discussion of this matter moot.

### The 35 USC §112, Second Paragraph Rejection

The Examiner rejected claims 26-28 under 35 USC §112, second paragraph, as being indefinite for using the word neoplasia. Inasmuch as claim 28 is directed to a method of treatment, not a compound, it is believed that this claim should not have been made part of the originally elected invention. Consequently, this subject matter was cancelled from the present application and will be addressed, if relevant, in a subsequent divisional application which would be directed to methods of treating cancer, a subset of neoplasia. It is respectfully submitted that prosecuting claims which include methods of treating neoplasia, as well as cancer, is a more efficient approach than dividing up the two types of method claims which, although patentably distinct, are closely related and are more efficiently dealt with together, rather than in separate applications. Inasmuch as this subject matter has been cancelled from the present application (along with the other method of treatment claims) it is respectfully submitted that the rejection based upon 35 USC §112, Second Paragraph is moot.

### The 35 USC §102 Rejections

The Examiner has rejected claims 1, 3-11, 17, 26-28 and 55-58 variously as being anticipated by Trigo, et al., *J. Heterocyclic Chem.* (1980) 17, pp. 69-72 ("Trigo"), Paton, et al., *J. Chem Soc.* (1969) 10, pp. 1309-1314 ("Paton"), Petit, et al., *J. Natural Products* (1984) 47, pp. 913-919 ("Petit"), Liepa, et al., *J. Chem Comm.* (1977) 22, 826-827 ("Liepa") and Saifah, et al., *J. Natural Products* (1983) 46, pp. 352-358 ("Saifah") for the reasons which are stated in the office action on pages 2-4. Applicants will address each of the rejections and will point out that the newly presented claims are clearly not anticipated by the cited art.

Trigo discloses several compounds on page 69. The present compounds are distinguishable from Trigo, in particular, in the substituents on the tricyclic aryl group. No anticipation is made out here.

The present compounds are distinguishable over Paton and do not contain the same substituents. See pages 1309-1310. Note that R<sub>5</sub> in the compounds of claims 63-64 is other than H.

The present compounds are not anticipated by Petit. None of the present compounds is the same as those disclosed by Petit on page 915. No anticipation is made out.

Turning to the disclosure of Liepa, none of the compounds which are cited on page 826 or 827 of Liepa is identical to the compounds of the present invention, a requirement for anticipation. Consequently, no anticipation of the present claims is made out by Liepa.

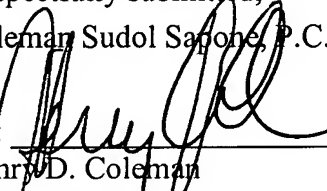
Finally, Saifah does not anticipate the present invention as evidenced by a comparison of the compounds which are disclosed on page 354 and those of the present invention. None of the present compounds of the present invention is the same as the disclosed compounds.

For the above reasons, the prior art does not anticipate the presently claimed invention.

For the above reasons, Applicant respectfully asserts that the claims set forth in the amendment to the application of the present invention are now in compliance with 35 U.S.C. Applicants respectfully submit that the present application is now in condition for allowance and such action is earnestly solicited. Applicants have cancelled 62 claims and added 31 claims (four independent).

A fee in the amount of \$100 for one additional independent claim (small entity) is enclosed. An extension of time of one month and fee in the amount of \$60 is submitted herewith. If any additional fee is due or any overpayment has been made, please charge/credit Deposit Account No. 04-0838.

Respectfully submitted,  
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: "United States Patent and Trademark Office P.O. Box 1450 Alexandria, Virginia 22313-1450" on September 21, 2007.

  
Henry D. Coleman